Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1996

EURICA CALIFORRNIAA,

Petitioner,

- v.-

WILLIAM JEFFERSON CLINTON,
PRESIDENT OF THE UNITED STATES,

Respondent.

Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

EURICA CALIFORRNIAA
c/o General Delivery
Malibu, CA 90265

Pro Se as Petitioner

DECEMBER 1996

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Question Presented

Article II directs the President of the United States to enforce the Fourteenth Amendment which circumscribes the actions of states. Under Rule 45.1, all process of this Court issues in the name of the President of the United States.

The question presented is:

1. Whether this Court should correct errors in its process and in so doing abandon *Roe v. Wade*, 410 U.S. 113 (1973), which legalized certain abortions.

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No. _____

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Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

I, Eurica Californiaa hereby invoke the privilege of jurisdiction on writ of certiorari to review judgment rendered by the United States Court of Appeals in this case.

Opinions Below

The judgment appealed from, the order of the United States Court of Appeals for the Ninth Circuit; unpublished, entry September 13, 1996; and the judgment initiating appellate review, the judgment and order of the United States District Court for the Central District of California; unpublished, entry December 13, 1995, are set forth in the appendix to this petition. See Index.

Basis for Jurisdiction

(i) September 13, 1996 is the date the judgment sought to be reviewed was entered.

(ii) 28 U.S.C. § 1254(1) is the statutory provision believed to confer on this Court jurisdiction to review on a writ of certiorari the judgment in question.

Provisions of Law

U.S. Const., Art. II, § 1, cl. 7; Amdt. 14, §§ 1, 2, 5; 28 U.S.C. §§ 1254(1), 1331; and this Court's Rule 45.1 are set forth in the appendix to this petition. See Index.

Statement of the Case

(i) Review of a judgment of the United States Court of Appeals for the Ninth Circuit is sought, the basis for federal jurisdiction in the court of first instance, the United States District Court for the Central District of California, is believed to be conferred by 28 U.S.C. § 1331.

(ii) On November 7, 1995, proceeding *pro se*, I filed a civil action in the district court.

I alleged that the President of the United States has ministerial duty to enforce the Fourteenth Amendment and is liable for all errors made by this Court including this Court's error in *Roe v. Wade*, 410 U.S. 113 (1973), which legalized certain abortions. As personal relief, I essentially requested an injunction against future abortions and damages.

(iii) In an order entered on December 13, 1995, the district court *sua sponte* dismissed the entire matter for lack of subject matter jurisdiction.

(iv) In a memorandum decision entered on May 13, 1996, this Court denied my petition for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit before judgment, *Californniaa v. Clinton*, 116 S.Ct. 1705 (1996).

(v) In an order entered on September 13, 1996, the court of appeals gave summary affirmance to the district court's judgment, terminating my appeal on the merits after submission without oral hearing.

Reasons for Allowance of the Writ

I.

This Court should correct errors in its process and in so doing abandon *Roe v. Wade*, 410 U.S. 113 (1973), which legalized certain abortions.

Abortion policy exists as a social rejection of viviparity among human beings. Legal acceptance of viviparity among equal persons, mother and conceptus, means preserving the distinction between killing and letting die. Furthermore, while abandonment of abortion policy will only moderately alleviate the mortality rate among conceptuses, recognition for their universal human rights will inevitably precipitate better medical care and social understanding for the sake of their lives.

Conclusion

The writ of certiorari should be allowed in this case.

EURICA CALIFORRNIAA
c/o General Delivery
Malibu, CA 90265

Pro Se as Petitioner

RESPECTFULLY SUBMITTED.

No. _____

IN THE

Supreme Court of the United States

OCTOBER TERM, 1996

EURICA CALIFORRNIAA,

Petitioner,

- v.-

WILLIAM JEFFERSON CLINTON,
PRESIDENT OF THE UNITED STATES,

Respondent.

Appendix to the Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

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I.

Judgment appealed from, the order of the United States Court of Appeals for the Ninth Circuit. Unpublished, entry September 13, 1996.

FILED
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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EURICA CALIFORRNIAA,)	No. 96-55252
)	
Plaintiff-Appellant,)	DC# CV 95-7606-JSL
)	Central California
vs.)	
)	
PRESIDENT OF THE)	ORDER
UNITED STATES,)	
)	
Defendant-Appellee.)	
)	

Before: FLETCHER, BRUNETTI and NOONAN, Circuit Judges

A review of the record and appellant's opening brief indicates that the questions raised in this appeal are so insubstantial as not to need further argument. See United States v. Hooton, 693 F.2d 857 (9th Cir. 1982)(per curiam). Accordingly, we summarily affirm the district court's judgment. All pending motions are denied as moot.

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II.

Judgment initiating appellate review, the judgment and order of the United States District Court for the Central District of California. Unpublished, entry December 13, 1995.

A.
Judgment

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CENTRAL DISTRICT OF CALIFORNIA
BY _S_ DEPUTY

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DEC 13 1995
CENTRAL DISTRICT OF CALIFORNIA
BY ___ DEPUTY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

EURICA CALIFORRNIAA,)	NO. CV 95-7606-JSL
)	
Plaintiff,)	JUDGMENT
)	
v.)	
)	
THE PRESIDENT OF THE)	
UNITED STATES,)	
)	
Defendants.)	
_____)	

Pursuant to the Order Dismissing Complaint for Lack of Subject Matter Jurisdiction,

IT IS ADJUDGED that the action is dismissed for lack of subject matter jurisdiction.

DATED: 12-7-95

/s/ J. SPENCER LETTS
UNITED STATES DISTRICT JUDGE

B .
Order

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BY ___ DEPUTY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

EURICA CALIFORRNIAA,)	NO. CV 95-7606-JSL(CT)
)	
Plaintiff,)	ORDER DISMISSING
)	COMPLAINT FOR LACK
v.)	OF SUBJECT MATTER
)	JURISDICTION
THE PRESIDENT OF THE)	
UNITED STATES,)	
)	
Defendant.)	
_____)	

On November 7, 1995, plaintiff, proceeding pro se, filed a civil action in this court.

Plaintiff appears to allege that the President of the United States has violated the Fourteenth Amendment and is liable for all errors made by the Supreme Court including the Supreme Court's error in Roe v. Wade, 410 U.S. 113 (1973), which legalized certain abortions. As relief, plaintiff essentially requests an injunction against future abortions and damages.

Plaintiff has filed three prior actions in the Central District of California alleging similar violations against different defendants. All three lawsuits were dismissed with prejudice.[1]

DISCUSSION

1. Subject Matter Jurisdiction

District courts have original jurisdiction of all civil actions arising under the Constitution, law or treaties of the United States. 28 U.S.C. § 1331. The district courts also have original jurisdiction of all civil matters where the amount in controversy is greater than $50,000 and is between citizens of different states or between citizens of a state or different states and subjects of a foreign state. 28 U.S.C. § 1332.

A challenge to the court's subject matter jurisdiction can be raised at any time, including sua sponte by the court itself. Fed. R. Civ. P. 12(h)(3); May Co. Dept. Store v. Graphic Process Co., 637 F.2d 1211, 1216 (9th Cir. 1980).

A. Federal Question Jurisdiction

Plaintiff has not properly asserted federal question jurisdiction.[2] He claims the President of the United States has violated the Fourteenth Amendment. Section 1 of the Fourteenth Amendment states in part:

---

[1] Case numbers CV 94-6143-JSL, CV 94-7742-HLH(JRx), and CV 95-0709-RG(SHx). The orders dismissing these actions are attached to this order as exhs. 1, 2, and 3 respectively.

[2] Plaintiff does not appear to allege diversity jurisdiction.

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. amend. XIV, § 1.

However, the President of the United States is not a state nor does he act on behalf of a state. Instead, he is a member of the executive branch of the federal government. Therefore, the Fourteenth Amendment cannot serve as authority for a lawsuit against the President of the United States.

B. Standing

Plaintiff claims injuries not only to himself but also to fetuses. However, this court lacks jurisdiction inasmuch as plaintiff has no standing to file this action on behalf of fetuses. Plaintiff's self-claimed status as a defender of fetuses does not confer standing. Diamond v. Charles, 476 U.S. 54, 66 (1986).

2. Venue

The venue provisions of 28 U.S.C. § 1391 pertinent to this action are as follows:

> (b) a civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.

Based on plaintiff's complaint, venue is not proper in the Central District of California. The President of the United

States does not reside in the Central District of California. Plaintiff states the "process" of the United States Supreme Court is in error. Since the United States Supreme Court is located in Washington D.C. "a substantial part of the events or omissions giving rise to the claim" take place in Washington D.C.

3. Pro Se Representation

Finally, plaintiff not only appears to represent himself but also claims to represent all fetuses. A non-attorney may represent himself pro se, but the privilege is personal to him. C.E. Pope Equity Trust v. United States, 818 F.2d 696, 697 (9th Cir. 1987). Plaintiff has no authority to appear as an attorney for those other than himself. Id.; see also Local Rule 2.9.2.

IT IS HEREBY ORDERED that this action is dismissed for lack of subject matter jurisdiction.

DATED: 12/7/95

/s/ J. SPENCER LETTS
UNITED STATES DISTRICT JUDGE

i.
Exhibit "1"

FILED
JAN -9 1995
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CENTRAL DISTRICT OF CALIFORNIA
BY ___ DEPUTY

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CLERK, U.S. DISTRICT COURT
JAN 10 1995
CENTRAL DISTRICT OF CALIFORNIA
BY ___ DEPUTY

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

EURICA CALIFORRNIAA, Plaintiff, v. UNITED STATES OF AMERICA, Defendant.	CV 94-6143 JSL ORDER GRANTING DEFENDANT'S MOTIONS TO DISMISS

The motion to dismiss of defendant United States of America was decided without hearing on January 5, 1995.

Having reviewed the papers filed in connection with this matter and being fully apprised of the relevant facts and law,

IT IS HEREBY ORDERED that the motion to dismiss of defendant United States of America be GRANTED. This action shall be dismissed with prejudice.

IT IS SO ORDERED.

DATED: 1/9/95

/s/ J. Spencer Letts
United States District Judge

EXHIBIT A

EXHIBIT "1"

ii.
Exhibit "2"

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV94-7742 HLH (JRx) Date 2/13/95
Title Eurica Californiaa v. USA

DOCKET ENTRY

PRESENT:
HON. HARRY L. HUPP, JUDGE
Milli Borgarding, Deputy Clerk
C. Mizell, Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:
Eurica Californiaa (pro per)✓

ATTORNEYS PRESENT FOR DEFENDANTS:
Nora Manella
Leon W. Weidman
Donna J. Everett
D. Schouten✓

PROCEEDINGS:
Motion to Dismiss

ORDER (also, if applicable, findings and memorandum opinion):

The motion to dismiss is granted without leave to amend. The action is dismissed by separate order signed and filed this date.

Many of the contentions argued by the government on this motion to dismiss have merit but would only lead to a dismissal with leave to amend. However, one of the argued grounds is fatal to the plaintiff's case and cannot be remedied by amendment to the complaint -- that is sovereign immunity. Accordingly, the granting of this motion to dismiss is based on lack of jurisdiction of this court.

As defendant points out, the United States may only be sued and the district court has jurisdiction only in situations where the United States has given its consent to be sued. It has not consented to be sued in a RICO case. Accordingly, this lawsuit may not be maintained and the action is dismissed.

A:947742.213

MINUTES FORM 11 Initials of Deputy Clerk (M)
CIVIL-GEN D-M

exhibit "2"

iii.
Exhibit "3"

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV95-709-HLH (JRx) Date May 24, 1995
Title Eurica Californiaa v. William Rehnquist, Chief Justice

DOCKET ENTRY

PRESENT:
HON. HARRY L. HUPP, JUDGE
Milli Borgarding, Deputy Clerk
None Present, Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:
Eurica Californiaa (pro per)

ATTORNEYS PRESENT FOR DEFENDANTS:
Michael Johnson, AUSA

PROCEEDINGS:
MOTION TO DISMISS

ORDER (also, if applicable, findings and memorandum opinion):

The motion to dismiss is granted without leave to amend. The action is dismissed by order signed and filed this date. The matter is removed from the calendar of 6/5/95 and decided by this minute order.

Mandate may only be used to control the ministerial (i.e., the non-discretionary or non-judgmental) actions of a public official. The Chief Justice does not have any ministerial duty raised by the complaint or any conceivable amendment to the complaint. There are no legal issues worthy of discussion at oral argument; the matter is therefore removed from the calendar of 6/5/95. The action is dismissed.

A:950709.524

MINUTES FORM 11 Initials of Deputy Clerk (M)
CIVIL-GEN D-M

exhibit "3"

III.

Prior judgment of this Court, the memorandum decision of this Court. Reported as Californiaa v. Clinton, 116 S.Ct. 1705 (1996)(mem.), entry May 13, 1996.

MEMORANDUM DECISIONS
Cite as 116 S.Ct. 1705 (1996)

Eurica CALIFORRNIAA, petitioner, v.
William Jefferson CLINTON, President of the United States.
No. 95-1556 (A-825)
May 13, 1996.

Application for stay addressed to Justice BREYER and referred to the Court denied. Petition for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit before judgment denied.

IV.

CONSTITUTION OF THE UNITED STATES

A.
Article II, Section 1, Clause 7

Before he enter on the Execution of his Office,he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

B.
Amendment XIV, Sections 1, 2, and 5

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are

citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

V.

UNITED STATES CODE

A.
Title 28, Section 1254(1)

§ 1254. Courts of appeals; certiorari; [certified questions]

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

B.
Title 28, Section 1331

§ 1331. Federal question

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

VI.

SUPREME COURT OF THE UNITED STATES

Court Rules, Rule 45.1

Rule 45. PROCESS; [MANDATES]

1. All process of this Court issues in the name of the President of the United States.